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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,407	03/31/2004	Luiz Cesar Zaniolo	2003P16618 US	5393

7590 04/03/2009
Elsa Keller
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EXAMINER

HARPER, KEVIN C

ART UNIT	PAPER NUMBER
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2416

MAIL DATE	DELIVERY MODE
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04/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/814,407	Applicant(s) ZANIOLO ET AL.	
	Examiner Kevin C. Harper	Art Unit 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 31, 2008 has been entered.

Response to Arguments

Applicant's arguments filed December 31, 2008 have been fully considered but they are not persuasive. Applicant argued that Cloonan does not disclose determining a system traffic level indicating a load level of system traffic across a system at a given time based on requests. However, the CMTS monitors the data traffic through the system links and determines a load level of system traffic (paras. 54-55; note: congestion determination and system bandwidth utilization) based on requests (para2. 15-16).

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3-4 and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cloonan et al. (US 2002/0126699).

1. Regarding claim 1, Cloonan discloses a method of managing traffic on a switching system (fig. 1) comprising determining or updating a level of system traffic indicating a load

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level across a system at a given time (fig. 2, item 225; para. 54), correlating the determined traffic level with a predetermined level of available service functionality (paras. 22-23 and 53), and establishing an available services list (para. 55, lines 1-4). The traffic level is determined based on a received request (paras. 15-16).

2. Regarding claims 3-4, the traffic determination is periodic and executed by a central server (item 302).

3. Regarding claim 6, the system includes point to point connections (para. 26; note: CM to CM communication) and the table includes a list of services (para. 55, lines 1-4) including an upper traffic limit and a lower traffic limit (para. 51, lines 1-3).

4. Regarding claims 7-8, the service availability is weighted (para. 55, lines 1-4; note: the services receive a weighted percentage of the available bandwidth) and each end point includes a communication device (fig. 1, CM).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 2, 11-13, 18-19, 22, 24-27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloonan et al. in view of Synnestvedt et al. (US 2008/0031439).

5. Regarding claims 2, 11-13, 18-22, 24-27 and 29, Cloonan discloses a method for requesting services as noted in the rejection of claim 1 above. The method further comprises receiving a service request from a requesting end point (para. 55, lines 6-7) and determining whether the service request is one of the available services on the available services lists (para.

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55, lines 6-12). Further regarding claim 20, the system includes point to point connections (para. 26; note: CM to CM communication.

6. However, Cloonan does not disclose generating a service availability message for the requested service and transmitting the service availability message to the requesting endpoint. Synnestvedt discloses transmitting an acceptance/denial message to an endpoint based on a call request (para. 28). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to transmit a message in response to a call admission control decision in the invention of Cloonan in order to notify the destination of the decision (Synnestvedt, para. 28).

Claims 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloonan et al. in view of Ni (US 2003/0122387) and Choski (US 6,978,144).

7. Regarding claims 9-10, Cloonan does not disclose voice or video services. Ni discloses voice and video services (para. 19). Therefore, it would have been obvious to one skilled in the art to provide voice and video services in the invention of Cloonan in order to distinguish and manage these services by class (Ni, paras. 19 and 29).

8. Further, Cloonan does not disclose conferencing connections. Choski discloses conferencing in a system (col. 3, line 64). Therefore, it would have been obvious to one skilled in the art to have conferencing traffic in the invention of Cloonan in order to provide user communication between two or more persons as is known in the art.

Claims 5, 14-17, 23, 28, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cloonan et al. in view of Synnestvedt et al., as applied to claim 2, 12 or 27 above, and in further view of Choksi (US 6,978,144).

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9. Regarding claim 5, Cloonan discloses system traffic including point to point connections (para. 26; note: CM to CM communication). The traffic determination is initiated upon receipt by a service request (para. 53, lines 1-12). However, Cloonan does not disclose conferencing connections. Choski discloses conferencing in a system (col. 3, line 64). Therefore, it would have been obvious to one skilled in the art to have conferencing traffic in the invention of Cloonan in order to provide user communication between two or more persons as is known in the art.

10. Regarding claims 14-17, 23, 28 and 30, Cloonan in view of Synnestvedt discloses providing call admission control and notifying a user of the result of the call admission determination. However, Cloonan in view of Synnestvedt does not disclose queuing a request. Choksi discloses queuing a service request (fig. 2, item 82). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to queue service requests in the invention of Cloonan in view of Synnestvedt in order to consider the service requests based on priority (Choksi, col. 1, lines 56-59).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 571-272-3166. The examiner can normally be reached weekdays from 11:00 AM to 7:00 PM ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost, can be reached at 571-272-7872. The centralized fax number for the Patent Office is 571-273-8300. For non-official communications, the examiner's personal fax number is 571-273-3166 and the examiner's e-mail address is kevin.harper@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications associated with a customer number is available through Private PAIR only. For more information about the PAIR system, see portal.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Kevin C. Harper/

Primary Examiner, Art Unit 2616

October 13, 2008